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8 **BEFORE THE DIRECTOR**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Amended Accusation
12 Against:

Case No. VN 2005-1848

13 **CHRISTIANE BORGERS, a.k.a.**
14 **CHRISTIANE DANA BORGERS**
1480 Valley Ranch Circle
Prescott, Arizona 86303

15 **A M E N D E D**
16 **A C C U S A T I O N**

15 Vocational Nurse License No. VN 96514

16 Respondent.

17 Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Amended Accusation solely in her official
20 capacity as the Executive Officer of the Bureau of Vocational Nursing and Psychiatric
21 Technicians ("Bureau")¹, Department of Consumer Affairs.

22 **License History**

23 2. On or about July 21, 1980, the Board issued Vocational Nurse License No.
24 VN 96514 ("license") to Christiane Borgers, also known as Christiane Dana Borgers,
25 ("Respondent"). The Vocational Nurse License will expire on June 30, 2010, unless renewed.

26
27 1. On July 1, 2008, the legislation for the Board of Vocational Nursing and Psychiatric
28 Technicians sunsetted. Business and Professions Code section 101.1(b) applies. As used
hereinbelow, "Board" and "Bureau" are used interchangeably.

JURISDICTION

3. This Amended Accusation is brought before the Bureau under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 101.1(b) of the Code states:

(1) In the event that any board, as defined in Section 477, becomes inoperative or is repealed in accordance with the act that added this section, or by subsequent acts, the Department of Consumer Affairs shall succeed to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed or made inoperative of the board and its executive officer.

(2) Any provision of existing law that provides for the appointment of board members and specifies the qualifications and tenure of board members shall not be implemented and shall have no force or effect while that board is inoperative or repealed. Every reference to the inoperative or repealed board, as defined in Section 477, shall be deemed to be a reference to the department.

5. Section 477 of the Code states, in part:

As used in this division:

(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

6. Section 2875 of the Business and Professions Code ("Code") states, in pertinent part, that the Board may discipline the holder of a Vocational Nurse License for any reason provided in Article 3 (commencing with Code section 2875) of the Vocational Nursing Practice Act.

7. Code section 118, subdivision (b), states, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under Code section 2892.1, the Board may renew an expired license at any time within four years after the expiration.

8. Code section 492 states:

Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5

1 (commencing with section 23249.50) of Chapter 121 of Division 11 of
2 the Vehicle Code, shall not prohibit any agency established under
3 Division 2 (Commencing with section 500) of this Code, or any
4 initiative act referred to in that division, from taking disciplinary action
5 against a licensee or from denying a license for professional
6 misconduct, notwithstanding that evidence of that misconduct may be
7 recorded in a record pertaining to an arrest.

8 This section shall not be construed to apply to any diversion program
9 operated by any agency established under Division 2 (commencing with
10 Section 500) of this code, or any initiative act referred to in that
11 division.

12 **STATUTORY PROVISIONS**

13 9. Code section 2878 states, in pertinent part:

14 The Board may suspend or revoke a license issued under this chapter
15 [the Vocational Nursing Practice Act (Bus. & Prof. Code, § 2840, et
16 seq.)] for any of the following:

17 (d) Violating or attempting to violate, directly or indirectly, . . . any
18 provision or term of this chapter.

19 10. Code section 2878.5 states, in pertinent part:

20 In addition to other acts constituting unprofessional conduct within
21 the meaning of this chapter [the Vocational Nursing Practice Act] it is
22 unprofessional conduct for a person licensed under this chapter to do
23 any of the following:

24 (a) Obtain or possess in violation of law, or prescribe, or except as
25 directed by a licensed physician and surgeon, dentist or podiatrist
26 administer to himself or herself or furnish or administer to another, any
27 controlled substance as defined in Division 10 of the Health and Safety
28 Code, or any dangerous drug as defined in Article 8 (commencing with
Section 4210) of Chapter 9 of Division 2 of this code.

11. Code section 4021 provides that “‘controlled substance’ means any
substance listed in Chapter 2 (commencing with Section 11053 of Division 10 of the Health &
Safety Code.”

12. Code section 4060 states, in pertinent part, that no person shall possess any
controlled substance, except that furnished to a person upon the prescription by a physician,
dentist, podiatrist, or veterinarian.

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1 13. Health & Safety Code section 11377, subdivision (a), provides, in relevant
2 part:

3 [E]very person who possesses any controlled substance which is . . .
4 specified in subdivision (d), (e), or (f) of Section 11055, unless upon the
5 prescription of a physician, dentist, podiatrist, or veterinarian, licensed to
6 practice in this state, shall be punished by imprisonment in a county jail
7 for a period of not more than one year or in the state prison.

8 14. **DRUG:**

9 **“Methamphetamine”** is a Schedule II controlled substance as designated by
10 Health and Safety (“H&S”) Code section 11055, subdivision (d)(2), and a dangerous drug within
11 the meaning of Code section 4022.

12 **COST RECOVERY**

13 15. Code section 125.3 provides, in pertinent part, that the Bureau may request
14 the administrative law judge to direct a licensee found to have committed a violation or
15 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
16 and enforcement of the case.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Possession of a Controlled Substance)**

19 16. Respondent has subjected her license to disciplinary action under Code
20 section 2878.5, subdivision (a), on the grounds of unprofessional conduct, in that on or about
21 March 15, 2006, in Orange County, California, Respondent possessed a controlled substance, to
22 wit: Methamphetamine. Such act of Respondent constitutes violations of Health & Safety Code
23 section 11377, subdivision (a), Code section 4060, subdivision (b), and constitutes
24 unprofessional conduct within the meaning of Code section 2878.5, subdivision (a).

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Violated/Attempted to Violate the Vocational Nursing Law)**

27 17. Respondent has subjected her license to disciplinary action under Code
28 section 2878, subdivision (d), in that Respondent violated, attempted to violate, directly or
indirectly, a term of the Vocational Nursing Practice Act, as set forth in paragraph 16, above.

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1 OTHER MATTERS


2 18. In a prior matter, on April 16, 2002, in the Superior Court of California,
3 County of Orange, in the case titled, *People of the State of California v. Christiane Dana*
4 *Borgers* (Super. Ct. Orange County, 1999, Case No. 02HF0136), Respondent was convicted on
5 her plea of *nolo contendere* of violating Health and Safety Code section 11350, subdivision (a)
6 [possession of a controlled substance, to wit: Cocaine base], and Health and Safety Code section
7 11377, subdivision (a) [possession of a controlled substance, to wit: Methamphetamine], both
8 felonies.

9 PRAYER

10 **WHEREFORE**, Complainant requests that a hearing be held on the matters
11 herein alleged, and that following the hearing, the Bureau of Vocational Nursing and Psychiatric
12 Technicians issue a decision:

- 13 1. Revoking or suspending Vocational Nurse License No. VN 96514 issued
14 to Christiane Borgers, also known as Christiane Dana Borgers;
15 2. Ordering Christiane Borgers, also known as Christiane Dana Borgers to
16 pay the Bureau the reasonable costs of the investigation and enforcement of this case, pursuant to
17 Code section 125.3; and,
18 3. Taking such other and further action as deemed necessary and proper.
19

20 DATED: September 5, 2008

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22 TERESA BELLO JONES, J.D., M.S.N., R.N.
23 Executive Officer
24 Bureau of Vocational Nursing and Psychiatric Technicians
25 Department of Consumer Affairs
26 State of California
27 Complainant
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